

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Section 25)
of the Cable Television)
Consumer Protection and)
Competition Act of 1992)

MM Docket No. 93-25

Direct Broadcast Satellite)
Public Service Obligations)

TO: The Commission

**REPLY COMMENTS OF
AMERICAN COMMUNITY SERVICE NETWORK**

American Community Service Network ("ACSN"), by its attorneys, hereby submits its Reply Comments in connection with the Notice of Proposed Rulemaking ("Notice"), released by the Commission in the above-captioned proceeding on March 2, 1993.¹

I. BACKGROUND

ACSN is a not-for-profit organization which specializes in the production, distribution and promotion of television programming that serves the public interest, and in the use of new and emerging technologies to serve the community and to meet human needs. Currently headquartered in Columbia, South Carolina, with offices in Washington, D.C., ACSN has pursued its mission for more

¹ 8 FCC Rcd 1589 (1993).

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than two decades. In the process, ACSN became the first organization to use satellite technology for the distribution of educational programming, and it created The Learning Channel ("TLC") cable television network which today serves more than 20 million homes with educational, cultural and lifelong learning programming. ACSN has become a recognized producer of innovative, award-winning television programming of an educational and informational nature.

In 1991, ACSN sold its interest in TLC to Discovery Communications, Inc. Since the sale, ACSN has continued with its television production activities (including THE INDEPENDENTS series still carried on TLC and LEARNING MATTERS which currently is carried on PBS). ACSN is actively engaged in developing other projects that will combine programming and technology to create a positive impact on basic human and community needs and enhance the quality of education.

**II. ACSN URGES THE COMMISSION TO ADOPT
AN ENCOMPASSING DEFINITION OF
"NATIONAL EDUCATIONAL PROGRAMMING SUPPLIERS"**

ACSN's primary interest in this proceeding is to ensure the ability of a wide range of programming producers to utilize the capacity that "providers of direct broadcast satellite service" must set aside under Section 25(b) of the 1992 Cable Act² for "noncommercial programming of an educational or informational nature." As the new DBS technology emerges, ACSN believes that

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992).

the public would be served best by having a broad diversity of programming sources and producers able to use the DBS channel capacity that Congress reserved for noncommercial, educational and informational purposes.

At Paragraph 43 of the Notice, the Commission seeks comments on whether it should define "national educational programming suppliers," by reference to Section 397 of the Communications Act of 1934, as amended.³ Section 397 establishes definitions for "noncommercial educational broadcast station," "public broadcasting entity," and "public telecommunications entity."

ACSN believes that the entities defined in Section 397 certainly should be included within the definition of "national educational programming suppliers." Nevertheless, the Commission should not exclude other organizations from participating in the use of the DBS channel reservations simply because those organizations do not fall within the precise definitions of public broadcasting and other entities enumerated in Section 397.⁴ The goal of Section 25(b) of the 1992 Cable Act unequivocally is to promote the distribution of "noncommercial programming of an

³ 47 U.S.C. § 397.

⁴ For its own part, ACSN, as currently constituted would fall within the definition of a "public broadcasting entity" under Section 397 because it is a "nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs." ACSN's activities and structure may also qualify it under the definition of "noncommercial telecommunications entity" which includes "a nonprofit private foundation, corporation or association . . . organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station."

educational or informational nature" over the newly emerging DBS distribution technologies. ACSN does not believe that the wishes of Congress and the interests of the public would be served by narrowly circumscribing the types of educational and informational programming production organizations that could take advantage of the provisions of Section 25(b).

CONCLUSION

For the foregoing reasons, ACSN urges the Commission to adopt an expansive and inclusive definition of "national educational programming suppliers," so that the consumers of new DBS technology will have access to a diversity of quality noncommercial programming from the widest possible production sources.

Respectfully submitted,

AMERICAN COMMUNITY SERVICE NETWORK

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CERTIFICATE OF SERVICE

I, Jette Ward, a secretary with the law firm of Reed Smith Shaw & McClay hereby certify that a true and correct copy of the foregoing **REPLY COMMENTS OF AMERICAN COMMUNITY SERVICE NETWORK** was sent this 14th day of July, 1993, by first-class U.S. mail, postage prepaid to the following:

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